

Massachusetts Eviction Storage Law



Protecting the Belongings
of Tenants Facing Eviction

Massachusetts law provides important rights to tenants who are facing an eviction or who have been evicted.

This booklet answers basic questions about the Massachusetts eviction storage law.

Prepared by the Massachusetts Law Reform Institute, February 5, 2013
and available at <http://www.masslegalhelp.org/housing/eviction-storage-law>.

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Who the Law Protects

1. Whom does the storage law protect?

If you are a tenant in Massachusetts and are facing an eviction or you have already been evicted, the eviction storage law provides very important protections. If you cannot find a new place to live and your landlord has your belongings put into an eviction storage facility, the law says:¹

- Your landlord must store your property in a [licensed public warehouse](#);
- Your landlord must write to you and tell you where your things are being stored;
- You have the right to choose where your things are stored, as long as:
 - 1) they are stored in a licensed public warehouse,
 - 2) the warehouse is not more than 20 miles from where you were evicted, and
 - 3) you write to the landlord **before or when your property is removed to say where they should be placed**;²
- The warehouse must make a written list of everything it is storing for you as they store it;
- The eviction storage company must file all of its fees with the Department of Public Safety (DPS), and the DPS must approve them;
- You have one-time access to remove items of primarily personal or sentimental value free of charge; and
- You have other protections described in this booklet.

The law was enacted to stop eviction storage companies from engaging in practices that are wrong and harmful to tenants. It is important to understand this law so that you can make sure your property is removed and stored in a

lawful manner. **To let others know about the law, please give out or post the one-page flyer on page 20.**

Note: An eviction storage company mainly moves and stores the property of people being evicted from their home, as opposed to other storage facilities which provide additional services.

2. When and why did the eviction storage law become law?

The eviction storage law became law on November 8, 2004 and was amended in 2010. It came about as a result of two tenants who joined with legal services advocates and a broad-based coalition to fight for storage protections so other tenants would not face the abuse that they had faced.

The two tenants, Rosemary Niland and Margaret Pierone, had been evicted through no fault of their own from an apartment that they had lived in for 20 years. The landlord had their belongings moved and put into storage by an eviction storage company which then held their personal belongings hostage, charged thousands of dollars in unreasonable fees, denied them access to the facility, and allowed their cherished belongings to deteriorate.

These tenants were not alone. Such bad practices by eviction storage companies had become increasingly common, especially against elderly and low-income families. Now, because of this law, Massachusetts is regulating the moving and storage companies that deal with the belongings of tenants who are evicted.



Margaret Pierone, one of the tenants who fought for the eviction storage law, unpacks one of the boxes she retrieved from storage.

Photo by Ken Martin

Facing Eviction

3. What should I know if I am facing an eviction?

To legally evict you and remove you and your belongings from your residence, your landlord must get a court order. If your landlord tries to evict you, you have a right to go to court and argue that you should not be evicted. For court forms and information to help you protect yourself, go to www.MassLegalHelp.org, click on *Housing*, then click on *Evictions*.

If the landlord gets what the law calls *possession* of your apartment (either because of a judge's order or because you have signed an agreement giving the landlord *possession*), the court will give the landlord a court order called an *execution*. On page 17 of this booklet there is a sample *execution* so you can see what the document looks like.

The landlord then gives this court order to a **constable, who is the only person who can legally move you out**. Your landlord does not have a right to physically remove you or your property.

The constable who comes to your residence must give you a written notice at least 48 hours before he or she comes to physically remove your property. This 48-hour period may not include weekends or holidays. Under the storage law, the constable's notice must have certain information in it so that if you cannot move out within the 48 hours, your property will be protected.

IMPORTANT:

A landlord can get an execution 10 days after a court enters a judgment for "possession" for the landlord and has up to 90 days to use it. **After 90 days the execution is no longer valid.**

If you have lost your eviction case or you agreed to move and you need time to move, you can ask a judge to [postpone your eviction](#). To do this, **immediately** fill out a form called a [Stay of Execution](#). You can get the form on www.MassLegalHelp.org. You can also go to court immediately and ask for a **Temporary Restraining Order** requesting that the court

postpone the eviction. Go see the court clerk who can help you do this.

4. What information must the 48-hour notice that a constable gives me have in it?

At least 48 hours before a constable can move you and your belongings out of your residence, the constable must give you written notice that tells you:³

	Date and Time of Constable's Arrival The specific date and time that the constable will arrive at your residence to physically remove your property.
	Constable's Contact Information Constable's full name, address, and telephone number in case you need to call the constable.
	Court Information Name of the court and the number of your eviction case.
	Notice That Storage Company Is Licensed The constable will place all personal property at a storage company that is licensed by the Department of Public Safety.
	Storage Company Contact Information The full name, address, and phone number of the storage company where your belongings are being stored.
	Storage Fee Information The address and phone number of the Department of Public Safety where you can find out whether the company has filed its storage fees and whether they have been rejected or approved. ⁴
	Notice About Sale of Your Property A statement that the storage company may sell your property if you do not claim it after 6 months and that funds from the sale can be used to pay any unpaid storage fees.
	You Must Notify the Storage Company If You Move A statement that you must notify the storage company in writing of any change in your mailing address.

To make sure the notice from the constable has all of the information on it as required by law, use the above as a checklist.

5. Can I choose where my property will be stored?

The storage law requires a constable who is evicting you to move your belongings to a [licensed public warehouse](#).⁵ A public warehouse has been licensed by the Department of Public Safety to store items.⁶

You have a right to have your belongings stored **at a licensed public warehouse** of your choosing, but it has to be **within 20 miles** of the place you were renting.⁷ To do so you must notify the constable of this **in writing at or before the time of removal of your property**.⁸ The storage law does not give you the right to choose to have your belongings stored at a self-storage facility or a friend or family's house without the landlord's permission. However, you can request that the landlord voluntarily move your belongings to a place of your choosing so you do not have to pay storage fees. Again, the landlord must voluntarily agree to do this.

A list of licensed public warehouses that comply with the eviction storage law is available online at:

<http://www.mass.gov/eopss/consumer-prot-and-bus-lic/license-type/public-warehouse/public-warehouse-evictions.html>

Important: Your landlord is required to pay the cost of removing your property to the warehouse. A landlord then has the right to seek reimbursement from you for storage fees and costs.⁹

6. How do I know what has been stored?

The storage law requires a constable who is moving your belongings to give you a written receipt that has a description of all of the goods removed or of the packages containing them. The constable must sign this list and include his or her name.

The constable must hand you this list if you are present. If you are not present while your belongings are being moved out, the constable must mail it to you at your last and best known address. The constable must also file

this list in the court where your eviction case was heard.

Within 7 days after your property is removed from your home, the storage company must also give or send you a written receipt that includes a description of the goods or packages being stored.¹⁰

Storage Company's Responsibilities

7. Does the storage company have to send me anything in writing?

Yes. Within 7 days of your property's having been put in storage, the storage company must mail or hand deliver to you a written receipt that lists its storage rates.¹¹ **This is why you must notify the storage company in writing if your address changes.** Even if you have not found other housing, you should notify them of any temporary address where you can receive mail. The receipt must also include the following information:

	After 6 Months, Your Property Can Be Sold After 6 months, the storage company may sell any of your unclaimed property at an auction and keep the money from the sale for storage fees that you have not paid as of the auction date.
	List of Storage Rates A list of the storage rates and a statement that the rates can be checked by contacting the Department of Public Safety (address and telephone number of the Department must be included).
	Statement Concerning Your Address Change A clear and obvious statement that you should notify the storage company in writing if there is a change in your mailing address.
	How to Get and Access Your Property How you can get your property back and your right to access your belongings once for free.
	Warehouser's Lien on Your Property A statement that the storage company has a <i>lien</i> on your property for storage charges. This means that they may sell or dispose of your property after 6 months if you do not pay your storage fees.

The eviction storage company must give you the written receipt either by hand or by receipted mail to your last and best known address. The company must keep a duplicate copy of the receipt on file at the warehouse.

8. What can a storage company charge?

The storage law requires a constable who is evicting you to move your belongings to a [licensed public warehouse](#). A public warehouse is a facility that has been licensed by the Department of Public Safety to store goods. Its rates must be filed with and not rejected by the Department of Public Safety.¹²

If you feel that the rates are too high, you can contact Guy Licciardi at the Department of Public Safety at 617-727-3200, extension 25262 (or other person responsible for the eviction storage law at the Department), to see whether the storage company has filed its rates with the Department, whether the rates filed are the same as the rates you are being charged, and whether the rates filed were rejected by the Department of Public Safety.¹³ A storage company cannot change its rates more than once a year, unless the Department of Public Safety approves such a change.¹⁴ In addition, these rates cannot be higher than rates for similar quality storage facilities in the storage company's area.¹⁵

Also, the storage company can charge you only for the actual storage of your property. It cannot add extra charges, which they may call “docking fees” or “administrative fees” or “warehouse labor fees.”¹⁶

The storage company must give you credit for any monies paid in advance by your landlord.¹⁷ In other words, the storage company cannot “double charge” you by having both you and your landlord pay for storage for the same period.

Lastly, the storage company cannot charge any minimum fees.¹⁸ This means that they can charge you only for the time that your property is actually stored. They cannot, for example, have a minimum of a month or two of storage fees.

Protecting My Belongings

9. Who pays for the property to be moved and stored?

The landlord in an eviction case must pay the cost of moving your property to the storage place. However, the landlord is then entitled to be reimbursed by the tenant for this cost.¹⁹

As the tenant, you are responsible for paying the monthly fees for storage of your property. These fees must be “reasonable” and must be filed with and not rejected by the Department of Public Safety. If you do not pay the fees that are owed, the storage company may sell your belongings after a 6-month period of time and after providing you with advanced notice of the sale.²⁰(See Question 13 for more about when a company can sell your belongings.)

10. Can I get access to my belongings?

Under the storage law, you have a right to get into your stored property once free of charge to inspect the property or to remove items that have a primarily personal or sentimental value. Such items may include funeral urns, photographs, passports, other documents, or anything else that has personal or sentimental value to you.²¹

11. How can I get my property back?

You can get your stored property back any time upon payment of all of the monthly storage fees that are owed.²² If you do not claim your property after 6 months from the date that it was stored, the storage company may sell it and keep the money from the sale to pay for the monthly storage fees.²³

12. What can I do if my belongings are damaged while they are in storage?

An eviction storage company has a duty of care under the law. This means the company must treat your stored property with the watchfulness and care that any reasonable person would use in the same circumstance.²⁴

A storage company cannot require you to sign any papers that release it of liability for damage to your property.²⁵ To protect yourself, you should make a list of the damaged items and their approximate value. Give this list to the storage company and ask for reimbursement. Or try to negotiate a deal when you get your belongings so that you do not have to pay the entire storage bill.

If the company refuses to reimburse you for the damage or renegotiate your storage bill, you can consider filing a court case against it in either small claims or another court. In many cities and towns there are Consumer Councils or programs that may have staff who can provide you with advice. You can also contact the [Department of Public Safety](#) and/or the [Consumer Division of the Attorney General's office](#) if you need more assistance. See Question 14.

13. Can an eviction storage company sell or dispose of my belongings?

If you have not paid your monthly storage fees, an eviction storage company can sell or dispose of your belongings. However, they must wait 6 months before doing this.²⁶

If you pay the eviction storage company for half of all storage fees, plus reasonable costs it incurred in preparing for the sale, then you have a right to postpone the sale or disposal of your property for 3 months.²⁷

14. What should I do if a constable or storage company violates the eviction storage law?

If a constable or an eviction storage company does something unlawful, you should report this to:

Attorney General's Office

Office of the Attorney General Consumer Complaint Hotline
at 617-727-8400

Department of Public Safety

Guy Licciardi at 617-727-3200, extension 25262 or 25249
(or other person responsible for the eviction storage law at the
Department)

Consumer Councils

You can also contact your local Consumer Council or program to help
you enforce the new eviction storage law. See the list below.

15. Where is the nearest Consumer Council?

The Consumer Protection Division of the Office of the Attorney General, which is the primary agency that enforces state consumer laws, funds the following 21 local consumer programs to mediate complaints from individual consumers, including complaints involving landlord/tenant issues. Look for the program nearest you.

AGO Consumer Hotline and Mediation Services (617) 727-8400

BerkshireCounty Regional Housing Authority

Consumer Services Office.....(413) 443-7138 x221
1 Fenn Street, 4th Floor, PittsfieldMA01201

Boston Consumer Affairs and Licensing Division(617) 635-3834
City Hall, Room 817, BostonMA02201

Cambridge Consumers' Council (617)-349-6150
831 Massachusetts Ave., CambridgeMA02139

Consumer Affairs Office, RevereCity Hall.....(781) 286-8114
150 Beach St., RevereMA02151

Consumer Aid Program

SouthShore Community Action Council(508) 747-7575 x6226
265 South Meadow Rd., PlymouthMA02360

Consumer Assistance Council, Inc.(800) 867-0701
149 Main St., HyannisMA02601 (508) 771-0700

Consumer Assistance Office-Metro West, Inc. (508) 651-8812
209 West Central St., Suite 304, NatickMA 01760

AnnaMariaCollege's MollyBishCenter..... (508) 849-3274
88 Prescott St., Worcester, MA 01605

Consumer Protection Office

Norfolk District Attorney's Office (781) 830-4800 x279
45 Shawmut Rd., Canton, MA02021

Consumer Protection Office

Northwestern District Attorney's Office..... (413) 774-3186
13 Conway St., Greenfield, MA01301

Consumer Protection Program, Community Action Inc. (978) 373-1971 x236
145 Essex St., Haverhill, MA01832

Consumer Protection Office

Northwestern District Attorney'sOffice.....(413) 586-9225
OneGleasonPlaza, Northampton, MA01060

Fall River Consumer Program (508) 324-2672
One GovernmentCenter, Fall River, MA02722

Greater Lawrence Community Action Council, Inc. (978) 681-4990
305 Essex St., Lawrence, MA01840

MassPIRGConsumerActionCenter, WhippleCenter..... (781) 335-0280
182 Green St., N. Weymouth, MA02191

Mayor's Office of Consumer Information (413) 787-6437
36 Court St., City Hall, Room 315, Springfield, MA01103-1699

Medford Consumer Advisory Commission.....(781) 393-2460
90 Main St., Medford, MA02155

MiddlesexCommunityCollegeLawCenter.....(978) 656-3342
33 Kearney Square, Lowell, MA01852

New Bedford City Hall, Depart of Community Services(508) 961-3020
133 William St., New Bedford, MA02740 (508) 979-1464

Newton-Brookline Consumer Office, NewtonCity Hall..... (617) 796-1292
1000 Commonwealth Ave., Newton, MA02459

Sample Letters and Forms

Sample Execution

EXECUTION ON JUDGMENT FOR SUMMARY PROCESS
THE TRIAL COURT
COMMONWEALTH OF MASSACHUSETTS

No.

To the Sheriffs of our several Counties, their Deputies, or to any Constable of any City or Town within the Commonwealth, Greeting:

BY ORDER of the Judge of the HOUSING COURT,

Plaintiff

Recovered Judgment on May 01, 2003, against

Defendant

For Possession of premises at PROPERTY ADDRESS, and

For:

Compensatory Damages	\$
Punitive Damages	\$
Attorney Fees	\$
Prejudgment Interest	\$
Court Costs	\$
Judgment Total	\$
Postjudgment Interest	\$
Execution Total	\$

SAMPLE

We command you, therefore, to deliver said premises to the [PLAINTIFF or DEFENDANT], and to collect the above sum, with your fees, of the money of said judgment-debtor, or his or her goods, chattels, lands or tenements, in any manner permitted by law, and to return this writ, satisfied or unsatisfied, to the Clerk of this Court, all within twenty years of the date of judgment, or within ten days after this writ has been satisfied or discharged.

WITNESS, , Judge of the Housing Court, on DATE PREPARED.

Clerk Magistrate

NOTICE TO OFFICER: This Execution may not be used to recover possession after EXPIRATION DATE.

This execution is returned to Court in [no part] [part] satisfied [for the sum of], never having been in the hands of an officer.

Attorney for (PLAINTIFF or DEFENDANT)

Sample Letter to Give Constable About Where to Bring Your Belongings

If you want your belongings stored at a **particular** [licensed public warehouse](#) within 20 miles of the place you were renting, you need to put this request **in writing**. On the next page is a sample letter that you can give to the landlord or the constable whom the landlord has hired to move your belongings. (To be safe, give the letter to both.) You must notify the constable in writing **at** or **before** the time of the removal of the property.

What follows are instructions about how to fill in the letter on the next page.

1. First paragraph

Write your: 1) name, 2) the address of the place you are being evicted from, and 3) the date that the constable is planning to move you out (which you should have received in a notice at least 48 hours in advance).

2. Second paragraph

Write exactly where you want your belongings delivered to. Your belongings must be stored at a [licensed public warehouse](#) **within 20 miles** of the place you were renting.

A list of licensed public warehouses that comply with the eviction storage law is available online at:

[http://www.mass.gov/eopss/consumer-prot-and-bus-lic/
license-type/public-warehouse/public-warehouse-evictions.html](http://www.mass.gov/eopss/consumer-prot-and-bus-lic/license-type/public-warehouse/public-warehouse-evictions.html).

IMPORTANT: You should make sure, in advance, that the licensed public warehouse is willing to accept your belongings at the time and date that is specified in the 48 hour notice. Your landlord is required to pay the cost of removing your property to the warehouse. A landlord then has the right to seek reimbursement from you for storage fees and costs.

3. Third paragraph

Write all phone numbers where the landlord or constable can reach you.

4. Sign the letter and write in the date

The date can be the same date that a constable is coming to move your belongings.

5. Deliver letter

If you can, make a copy of the letter for your records. Hand deliver the original and/or fax it to the landlord or constable (preferably both). You can do that **at** or **before** the removal of your property. It is a good practice to call the constable and/or landlord and tell them you will be delivering this notice.

5. New address optional

You can include your new address after your signature. You do not have to do this.

Notice of Delivery of Tenant's Belongings to Alternate Location

Dear landlord and/or constable,

1. I, _____,
am the tenant at _____,
and am facing eviction on _____.

2. Pursuant to my rights under Massachusetts law,* I am requesting
that you deliver my belongings to the following **licensed public
warehouse**:

I understand that if there is any payment due for storage
at this alternatelocation, I am responsible for it.

3. Please call me at _____ if you have any questions.
You may also reach me at _____.

Signature

Date

New address and phone:

Massachusetts Eviction Storage Law

Protecting the
Belongings of Tenants
Facing Eviction

If you are a tenant and facing an eviction or you have already been evicted, the eviction storage law:



- ✓ Requires that property be stored in a licensed public warehouse;
- ✓ Requires that you be told who is storing your property;
- ✓ Gives you the right to choose a particular **licensed public warehouse within 20 miles** of where you were renting;
- ✓ Requires that your property be inventoried before being put in storage;
- ✓ Requires that all fees charged by an eviction storage company be filed with and approved by the Department of Public Safety;
- ✓ Gives you one-time access to remove items of primarily personal or sentimental value free of charge; and
- ✓ Provides other protections.

For a **free booklet** with more information about the eviction storage law, go to your nearest legal services office or go on-line to:

www.MassLegalHelp.org/EvictionStorage

Acknowledgments

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Endnotes

¹ The Massachusetts Eviction Storage Law was first passed in 2004 in Chapter 271 of the Acts of 2004 and officially called *An Act Relative to the Storage of Personal Property upon Execution of a Summary Process Judgment*. It amended [M.G.L. c. 239, § 3](#), [M.G.L. c. 239, § 4](#), and [M.G.L. c. 105, § 4](#). In 2010, [M.G.L. c. 239, § 4\(a\)](#) was amended by Chapter 393 of the Acts of 2010 and limited where a person could have their belongings stored to a licensed public warehouse. The 2010 amendment went into affect on March 16, 2011.

² [Chapter 393 of the Acts of 2010](#) amended [M.G.L. c. 239, § 4\(a\)](#) and limited where a person who is being evicted could have their belongings stored to a licensed public warehouse. The tenant has the option, under the law, to choose a particular licensed public warehouse within a 20 mile radius of the apartment from which they are being evicted. Prior to this amendment, tenants could choose another place to store their property, such as self-storage or a friend or families house. Such options are no longer permitted under Chapter 393 of the Acts of 2010.

While the landlord must also store the belongings in a licensed public warehouse, the Massachusetts Department of Public Safety clarified that landlords are not bound to the 20 mile radius rule. See Massachusetts Department of Public Safety Advisory from Guy Licciardi, DPS Director of Regulated Activities and Special Licensing dated April 1, 2011. Go to:

<http://www.mass.gov/eopss/docs/dps/inf/warehouser-advisory-re-20-mile-radius-2011.pdf>

³ [M.G.L. c. 239, § 3, 3rd paragraph](#).

⁴ Fees will be deemed approved so long as they have been filed with and not rejected by the Department of Public Safety; and so long as they are not more than the market rates for similar storage facilities in the area. [M.G.L. c. 239, § 4\(b\)\(3\) and \(4\)](#).

⁵ [M.G.L. c. 239, § 3, 3rd paragraph](#); [M.G.L. c. 239, § 4\(a\)](#). The warehouse must also be within a “reasonable distance” of the place that you were renting. [M.G.L. c. 239, § 3, 4th paragraph](#).

⁶ There are different types of public warehouses. Eviction warehouses are where items are stored as a result of eviction and they must comply with [M.G.L. c. 239, § 4](#). For more information see the Massachusetts Department of Public Safety’s *Frequently Asked Questions* at: <http://www.mass.gov/eopss/consumer-prot-and-bus-lic/license-type/public-warehouse/warehouses-faqs.html>.

⁷ [M.G.L., c. 239, § 4\(a\)](#), 2nd and 4th sentences.

⁸ [M.G.L. c. 239, § 4\(a\)](#), 2nd sentence.

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- 9 [M.G.L. c. 239, § 4\(c\)](#)
- 10 [M.G.L. c. 106, § 7-202\(f\)](#).
- 11 [M.G.L. c. 239, § 4\(d\)](#).
- 12 [M.G.L. c. 239, § 4\(b\)\(2\)](#). See also the Massachusetts Department of Public Safety's *Frequently Asked Questions* at: <http://www.mass.gov/eopss/consumer-prot-and-bus-lic/license-type/public-warehouse/warehouses-faqs.html>.
- 13 [M.G.L. c. 239, § 4\(b\)\(3\)](#).
- 14 [M.G.L. c. 239, § 4\(b\)\(2\)](#).
- 15 [M.G.L. c. 239, § 4\(b\)\(4\)](#).
- 16 [M.G.L. c. 239, § 4\(b\)\(5\)](#).
- 17 [M.G.L. c. 239, § 4\(b\)\(7\)](#).
- 18 [M.G.L. c. 239, § 4\(b\)\(6\)](#).
- 19 [M.G.L. c. 239, § 4\(c\)](#).
- 20 [M.G.L. c. 239, § 4\(e\)](#). See also [M.G.L. c. 106, §7-210](#)
- 21 [M.G.L. c. 239, § 4\(f\)](#).
- 22 [M.G.L. c. 239, § 4\(f\)](#).
- 23 [M.G.L. c. 239, § 4\(e\)](#).
- 24 [M.G.L. c. 239, § 4\(b\)\(9\)](#). See also the Department of Public Safety's Warehouses (FAQs) at: <http://www.mass.gov/eopss/consumer-prot-and-bus-lic/license-type/public-warehouse/warehouses-faqs.html>
- 25 [M.G.L. c. 239, § 4\(b\)\(9\)](#)
- 26 [M.G.L. c. 239, § 4\(e\)](#).
- 27 [M.G.L. c. 239, § 4\(e\)](#).